

By: Alvarado

H.J.R. No. 110

A JOINT RESOLUTION

1 proposing a constitutional amendment to establish permanent funds  
2 for the support of state institutions and agencies of higher  
3 education that do not participate in funding from the permanent  
4 university fund.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article VII, Texas Constitution, is amended by  
7 adding Sections 21 and 22 to read as follows:

8 Sec. 21. (a) The permanent university fund II is  
9 established as a trust fund outside the state treasury to provide  
10 for the maintenance and support of the University of Houston System  
11 and the Texas Tech University System and the institutions of higher  
12 education within those systems.

13 (b) The permanent university fund II is managed by the  
14 boards of regents of the University of Houston System and the Texas  
15 Tech University System acting jointly. The boards of regents by  
16 agreement may designate a public or private entity to manage the  
17 fund, including a nonprofit corporation created by the boards to  
18 manage the fund on their behalf. If the boards of regents have not  
19 designated an entity to manage the fund, the comptroller of public  
20 accounts shall manage the fund at the direction of the boards of  
21 regents.

22 (c) The permanent university fund II consists of:

23 (1) money transferred to the fund from the permanent  
24 university fund under Subsection (d) of this section;

1           (2) any other money or asset transferred or deposited  
2 to the credit of the fund by the legislature or under this  
3 constitution; and

4           (3) any increase in the value of or income from the  
5 assets of the fund.

6           (d) At the end of each state fiscal biennium beginning with  
7 the biennium ending August 31, 2019, the comptroller shall  
8 determine the total value of the permanent university fund as of  
9 that date plus the total amount of distributions made from the fund  
10 in that biennium. If the total amount determined by the comptroller  
11 for a state fiscal biennium exceeds the total value of the permanent  
12 university fund as of August 31, 2017, plus the total amount of  
13 distributions made from the permanent university fund in the state  
14 fiscal biennium ending August 31, 2017, the comptroller shall  
15 promptly transfer from the permanent university fund to the  
16 permanent university fund II an amount equal to 99 percent of the  
17 excess amount.

18           (e) Unless otherwise provided by this section, the  
19 provisions of this constitution governing the investment of the  
20 permanent university fund apply to the investment of the permanent  
21 university fund II.

22           (f) The available university fund II consists of the  
23 distributions made to it from the total return on all investment  
24 assets of the permanent university fund II. The amount of any  
25 distributions to the available university fund II shall be  
26 determined jointly by the boards of regents of the University of  
27 Houston System and the Texas Tech University System in a manner

intended to provide the available university fund II with a stable and predictable stream of annual distributions and to maintain over time the purchasing power of permanent university fund II investments and annual distributions to the available university fund II, taking into account any transfers from the permanent university fund II to the permanent university fund III required by Section 22 of this article. The amount distributed to the available university fund II in a state fiscal year must be not less than the amount needed to pay the principal and interest due and owing in that fiscal year on bonds and notes issued under this section. If the purchasing power of permanent university fund II investments for any rolling 10-year period is not preserved, the boards of regents may not increase annual distributions to the available university fund II until the purchasing power of the permanent university fund II investments is restored, except as necessary to pay the principal and interest due and owing on bonds and notes issued under this section. An annual distribution made to the available university fund II during any state fiscal year may not exceed an amount equal to seven percent of the average net fair market value of permanent university fund II investment assets as determined by the boards of regents, except as necessary to pay any principal and interest due and owing on bonds and notes issued under this section. The expenses of managing permanent university fund II land and investments shall be paid by the permanent university fund II.

(g) The boards of regents of the University of Houston System and the Texas Tech University System may not make any

1 distributions to the available university fund II until a state  
2 fiscal biennium that begins after the first state fiscal biennium  
3 in which the total value of the permanent university fund II, as  
4 determined by the comptroller, equals or exceeds the total value of  
5 the permanent university fund as of August 31, 2017, plus the total  
6 amount of distributions made from the permanent university fund in  
7 the state fiscal biennium ending August 31, 2017. As soon as  
8 practicable after the comptroller makes that determination, the  
9 comptroller shall make an equitable distribution of the land in the  
10 permanent university fund between the permanent university fund and  
11 the permanent university fund II so that the value of the land and  
12 related mineral interests in each fund are substantially equal, and  
13 shall transfer funds from the permanent university fund II to the  
14 permanent university fund equal to the value of the land and related  
15 mineral interests transferred to the permanent university fund II  
16 under this subsection.

17       (h) The Board of Regents of the University of Houston System  
18 may issue bonds and notes not to exceed a total amount of 15 percent  
19 of the cost value of the investments and other assets of the  
20 permanent university fund II (exclusive of real estate) at the time  
21 of the issuance of the bonds and notes, and may pledge all or any  
22 part of its interest in the available university fund II to secure  
23 the payment of the principal and interest of those bonds and notes,  
24 for the purpose of acquiring land either with or without permanent  
25 improvements, constructing and equipping buildings or other  
26 permanent improvements, major repair and rehabilitation of  
27 buildings and other permanent improvements, acquiring capital

1 equipment and library books and library materials, and refunding  
2 bonds or notes issued under this section or other law for the  
3 University of Houston System administration and any component  
4 institution of higher education of the system.

5       (i) The Board of Regents of the Texas Tech University System  
6 may issue bonds and notes not to exceed a total amount of 15 percent  
7 of the cost value of the investments and other assets of the  
8 permanent university fund II (exclusive of real estate) at the time  
9 of the issuance of the bonds and notes, and may pledge all or any  
10 part of its interest in the available university fund II to secure  
11 the payment of the principal and interest of those bonds and notes,  
12 for the purpose of acquiring land either with or without permanent  
13 improvements, constructing and equipping buildings or other  
14 permanent improvements, major repair and rehabilitation of  
15 buildings and other permanent improvements, acquiring capital  
16 equipment and library books and library materials, and refunding  
17 bonds or notes issued under this section or other law for the Texas  
18 Tech University System administration and any component  
19 institution of higher education of the system.

20       (j) An institution of higher education that receives  
21 funding under Section 17 of this article in a state fiscal year may  
22 not participate in the funding provided by this section in that  
23 year.

24       (k) The proceeds of the bonds or notes issued under this  
25 section may not be used for the purpose of constructing, equipping,  
26 repairing, or rehabilitating buildings or other permanent  
27 improvements that are to be used for student housing,

1 intercollegiate athletics, or auxiliary enterprises.

2 (1) The bonds and notes issued under this section shall be  
3 payable solely out of the available university fund II, mature  
4 serially or otherwise in not more than 30 years from their  
5 respective dates, and, except for refunding bonds, be sold only  
6 through competitive bidding. All of these bonds and notes are  
7 subject to approval by the attorney general and when so approved are  
8 incontestable. The permanent university fund II may be invested in  
9 these bonds and notes.

10 (m) To assure efficient use of construction funds and the  
11 orderly development of physical plants to accommodate the state's  
12 real need, the legislature may provide for the approval or  
13 disapproval of all new construction projects at the institutions  
14 entitled to participate in the funding provided by this section  
15 except the University of Houston and Texas Tech University.

16 (n) The state systems and institutions of higher education  
17 that receive funds under this section in a state fiscal year may not  
18 receive any funds from the general revenue of the state in that  
19 fiscal year for acquiring land with or without permanent  
20 improvements, for constructing or equipping buildings or other  
21 permanent improvements, or for major repair and rehabilitation of  
22 buildings or other permanent improvements except that:

23 (1) in the case of fire or natural disaster the  
24 legislature may appropriate from the general revenue an amount  
25 sufficient to replace the uninsured loss of any building or other  
26 permanent improvement; and

27 (2) the legislature, by two-thirds vote of each house,

may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

(o) This section is self-enacting and the comptroller shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms, and nothing in this section shall affect the pledges made in connection with such bonds or notes previously issued. If the provisions of this section conflict with any other provision of this constitution, then the provisions of this section shall prevail, notwithstanding any such conflicting provisions.

Sec. 22. (a) The comptroller of public accounts shall establish the permanent university fund III as a trust fund outside the state treasury. The legislature shall use the fund to provide a permanent source of funding for the maintenance and support of state institutions of higher education that do not benefit from the funding provided by the permanent university fund or the permanent university fund II.

(b) Subject to Subsection (c), beginning with the next state fiscal biennium after the comptroller determines that, as of the end of a state fiscal biennium, the total value of the permanent

1 university fund II equals or exceeds the total value of the  
2 permanent university fund as of August 31, 2017, plus the total  
3 amount of distributions made from the permanent university fund in  
4 the state fiscal biennium ending August 31, 2017:

5       (1) the transfers from the permanent university fund  
6 to the permanent university fund II under Section 21(d) of this  
7 article shall cease, and the amount, if any, that would otherwise be  
8 transferred from the permanent university fund in each subsequent  
9 state fiscal biennium under Section 21(d) shall be transferred to  
10 the permanent university fund III; and

11       (2) an amount equal to 99 percent of the amount by  
12 which the total value of the permanent university fund II at the end  
13 of a subsequent state fiscal biennium plus the total amount of  
14 distributions made from the permanent university fund II in that  
15 biennium exceeds the total value of the permanent university fund  
16 as of August 31, 2017, plus the total amount of distributions made  
17 from the permanent university fund in the state fiscal biennium  
18 ending August 31, 2017, if any, shall be transferred from the  
19 permanent university fund II to the permanent university fund III.

20       (c) If at the end of a state fiscal biennium the total value  
21 of the permanent university fund III plus the amount of all  
22 distributions made from the fund in that biennium is equal to or  
23 exceeds the total value of the permanent university fund as of  
24 August 31, 2017, plus the total amount of distributions made from  
25 the permanent university fund in the state fiscal biennium ending  
26 August 31, 2017, then in each subsequent state fiscal biennium the  
27 transfers from the permanent university fund and the permanent



1 university fund II under Subsection (a) of this section shall  
2 cease.

3 SECTION 2. Section 18(e), Article VII, Texas Constitution,  
4 is amended to read as follows:

5 (e) The available university fund consists of the  
6 distributions made to it from the total return on all investment  
7 assets of the permanent university fund, including the net income  
8 attributable to the surface of permanent university fund land. The  
9 amount of any distributions to the available university fund shall  
10 be determined by the board of regents of The University of Texas  
11 System in a manner intended to provide the available university  
12 fund with a stable and predictable stream of annual distributions  
13 and to maintain over time the purchasing power of permanent  
14 university fund investments and annual distributions to the  
15 available university fund, taking into account any transfers from  
16 the permanent university fund to the permanent university fund II  
17 or permanent university fund III required by Section 21 or 22 of  
18 this article. The amount distributed to the available university  
19 fund in a fiscal year must be not less than the amount needed to pay  
20 the principal and interest due and owing in that fiscal year on  
21 bonds and notes issued under this section. If the purchasing power  
22 of permanent university fund investments for any rolling 10-year  
23 period is not preserved, the board may not increase annual  
24 distributions to the available university fund until the purchasing  
25 power of the permanent university fund investments is restored,  
26 except as necessary to pay the principal and interest due and owing  
27 on bonds and notes issued under this section. An annual

1 distribution made by the board to the available university fund  
2 during any fiscal year may not exceed an amount equal to seven  
3 percent of the average net fair market value of permanent  
4 university fund investment assets as determined by the board,  
5 except as necessary to pay any principal and interest due and owing  
6 on bonds issued under this section. The expenses of managing  
7 permanent university fund land and investments shall be paid by the  
8 permanent university fund.

9       SECTION 3. This proposed constitutional amendment shall be  
10 submitted to the voters at an election to be held November 7, 2017.  
11 The ballot shall be printed to permit voting for or against the  
12 proposition: "The constitutional amendment to establish permanent  
13 funds for the support of state institutions and agencies of higher  
14 education that do not participate in funding from the permanent  
15 university fund."